IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2078 OF 2004
WITH
CRIMINAL APPLICATION NO.2079 OF 2004
IN
CRIMINAL APPLICATION NO.2078 OF 2004

M/s.Todi Industries Ltd. .. Applicant.
Vs.
Shri Jagdish Shivshankar Choudhari and Anr. .. Respondents.

Mr.Vishwas.C.Gupte for the applicant.
Mrs.M.H.Mhatre A.P.P. for the State.

CORAM : D.B.BHOSALE, J.

DATED : 6th JUNE, 2006

P.C.:

. Heard learned counsel for the parties.

2. This is an application under section 378 of the Code of Criminal Procedure seeking leave to file an appeal against the judgment and order dated 30.1.2004 by which respondent no.1 - accused has been acquitted for the offence under section 630 of the Companies Act. A perusal of the judgment and in particular paragraph 5 to 9 thereof clearly demonstrate that there is no material on record to show that the father of the respondent-accused - Late Shivshankar Choudhari, who was employee of the petitioner-company, was provided with premises of the

company and was put in possession thereof. Similarly, there is no material on record to show that the father of the respondent-accused was ever residing in the said premises. It was possible for the company to bring on record the evidence in the form of documents to show that in fact 10% of the amount, as claimed by them, was being deducted from the salary of respondent no.1's father towards the rent of the said premises. The applicant-company even could not give date or month or even year of handing over possession of the premises to the father of respondent-accused. Taking the totality of the circumstances into consideration the learned Magistrate has rightly acquitted the accused. In my opinion, this is not a fit case to grant leave to file appeal as prayed for by the applicant-company. The criminal application is, accordingly, rejected.

(D.B.Bhosale, J.)